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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,458
Filing Date: September 30, 2003
Appellant(s): KARAOGUZ ET AL.

Ognyan I. Beremski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/22/2009 appealing from the Office action mailed 07/22/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20020104099	Novak et al	08-2002
6,774,926	Ellis et al	08-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (US Patent Application Publication 2002/0104099 A1) in view of Ellis et al. (US Patent No. 6,774,926 B1).

With respect to Claim 1, the claimed "*determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location*" is met in part by Novak that teaches the determination of scheduled broadcast media by using an electronic program guide, EPG 153, which is constructed/produced by a local studio 106 or a cable service provider 108 and where personal media can be scheduled by a individual acting as a program director, upload source 122 (*Fig.1; paragraph [0038]*). The Novak reference does not explicitly teach that the EPG is scheduled at a given location for presentation at the same location.

However, in the same field of endeavor, Ellis et al. teach a personal television channel system in which contributors such as individuals in the home may create personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (*Abstract; Fig.1; col.1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col.11, lines 45-51; col.14, lines 23-32*).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teaching of the Novak reference with those of the Ellis et al. reference in order to allow a contributor to receive the personal channel listing that they have contributed. A person of ordinary skill in the art would have been motivated to make such a modification to the Novak reference so as to provide an overall more enjoyable viewing experience by permitting a contributing party to view personal media programming that they are most likely to be interested in.

The claimed "*acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider;*" is met by Novak that teaches the acquisition of personal media information from an upload source (122,222) pertaining to the scheduling or sequencing of personal media (*Figs.1,2, 6, & 7; paragraphs [0010], [0039], [0056], [0062], & [0063]*). The claimed "*and updating, at a second geographic location, said at least one constructed display based on said acquired information*" is met by Novak that teaches the updating of an EPG (153) upon acquiring information relevant to the scheduling of the personal media content uploaded by an upload source (122,222) to a local studio (106) or a cable service provider (108) and its subsequent transmittal to a 2nd geographic location- i.e. a user using set top box 152 (*Figs.1&2; paragraphs [0010], [0041], & [0079]*).

With respect to Claim 2, the claimed "*comprising transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location*" is met by Ellis et al. that teach a personal television channel system in which contributors such as individuals in the home may create

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personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (*Abstract; Fig.1; col.1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col.11, lines 45-51; col.14, lines 23-32*).

With respect to Claim 3, the claimed "*comprising accessing subscription information related to said media broadcast scheduled in at least one constructed display*" is met by Novak that teaches the acquisition of subscription information by a cable service provider's 108, in order to selectively send an updated EPG 153 containing a synthetic channel (*Figs.1, 7, & 11; paragraphs [0010], [0075] & [0080]*).

With respect to Claim 4, the claimed "*comprising storing media broadcast content corresponding to said accessed subscription information*" is met by Novak that teaches the storage to a server of uploaded media objects to be provided to a client terminal (*Figs.1, 2, 4, & 5; paragraphs [0010], [0039], [0043], [0055], [0056], [0061]*).

With respect to Claim 5, the claimed "*comprising communicating said stored media broadcast content to a location where said updated at least one constructed display is presented*" is met by Novak that teaches the transmittal of stored uploaded media objects to a client terminal via a synthetic channel, which is included in an updated EPG 153 (*Fig.1,2,4,& 11; paragraphs [0010], [0060], [0069], [0085], [0087]*).

With respect to Claim 6, the claimed "*comprising combining representations of updated broadcast media and/or said personal media in said at least one constructed*

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display based on said acquired information" is met by Novak that teaches the use of an EPG (153,802) in presenting to a client listings for both personal and broadcast media available (*Figs. 8 & 9; paragraphs [0026], & [0070]-[0074]*).

With respect to Claim 7, the claimed "*comprising generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media*" is met by Novak that teaches the production/generation of an updated EPG by a local studio 106 and/or a cable service provider 108 (*Figs. 1 & 7; paragraphs [0037], [0041], [0068]*).

With respect to Claim 8, the claimed "*comprising rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts*" is met by Novak that teaches the re-sequencing of media objects, to be presented on an electronic program guide, if an individual at an upload source 122 schedules one or more media objects for the same time slot (*paragraph [0065]*).

With respect to Claim 9, the claimed "*wherein said at least one constructed display is one or more of a channel guide, device guide, and/or media guide*" is met by Novak that teaches the use of an electronic program guide 153 for the display of personal media and broadcast media (*paragraphs [0010], [0026], [0037], [0083], [0087]*).

With respect to Claim 10, the claimed "*comprising formatting said at least one constructed display in a graphical user interface*" is met by Novak that teaches the use of a electronic program guide 153, that can be used as a graphical user interface in so

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far as automatic tuning to a particular channel can be achieved by clicking on a listing provided (*paragraphs [0037], [0038]*).

Claims 11, 21, 31 & 32 are met as previously discussed with respect to Claim 1.

Claims 12, 22, & 33 are met as previously discussed with respect to Claim 2.

Claims 13, 23, & 34 are met as previously discussed with respect to Claim 3.

Claims 14, 24, & 35 are met as previously discussed with respect to Claim 4.

Claims 15, 25, & 36 are met as previously discussed with respect to Claim 5.

Claims 16 & 26 are met as previously discussed with respect to Claim 6.

Claims 17 & 27 are met as previously discussed with respect to Claim 7.

Claims 18 & 28 are met as previously discussed with respect to Claim 8.

Claims 19, 29, & 37 are met as previously discussed with respect to Claim 9.

Claims 20, 30, & 38 are met as previously discussed with respect to Claim 10.

(10) Response to Argument

The examiner respectfully disagrees that the rejection should be reversed. Only those actual arguments raised by appellant's are being treated in the Examiner's Answer. Any further arguments regarding other elements or limitations not specifically argued that the appellant could have made are considered by the examiner as having been conceded by the appellant for the basis of the decision of this appeal. Accordingly, they are not being addressed by the examiner for further consideration by the panel. Should the panel find that the examiner's position/arguments or any aspect of the rejection is not sufficiently clear or a particular issue is of need of further explanation, it is respectfully requested that the case be remanded to the examiner for further explanation prior to the rendering of a decision.

Rejection Under U.S.C. 103 (a) over Novak and Ellis

A. Claims 1, 11, 21, 31, and 32

The rejection of record initially relies upon Novak to teach a method for processing media for selection and playback in a communication network. The Novak et al reference discloses and relies upon to teach determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location" is met in part by Novak that teaches the determination of scheduled broadcast media by using an electronic program guide, EPG 153, which is constructed/produced by a local studio 106 or a cable service provider 108 and where personal media can be scheduled by a individual acting as a program director, upload source 122 (Fig. 1; paragraph [0038]).

The claimed "acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider;" is met by Novak that teaches the acquisition of personal media information from an upload source (122,222) pertaining to the scheduling or sequencing of personal media (Figs.1,2, 6, & 7;paragraphs [0010], [0039], [0056], [0062], & [0063]). The claimed "and updating, at a second geographic location, said at least one constructed display based on said acquired information" is met by Novak that teaches the updating of an EPG (153) upon acquiring information relevant to the scheduling of the personal media content uploaded by an upload source (122,222) to a local studio (106) or a cable service provider (108) and its subsequent transmittal to a 2nd geographic location- i.e. a user using set top box

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152 (Figs. 1&2; paragraphs [0010], [0041], & [0079]). However, the Novak reference does not explicitly teach that the EPG is scheduled at a given location for presentation at the same location.

The rejection consequently relies upon Ellis et al to teach the EPG is scheduled at a given location for presentation at the same location. In general Ellis et al reference teaches a personal television channel system in which contributors such as individuals in the home may create personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (Abstract; Fig. 1; col. 1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col. 11, lines 45-51; col. 14, lines 23-32).

Accordingly, the examiner concluded it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teaching of the Novak reference with those of the Ellis et al. reference in order to allow a contributor to receive the personal channel listing that they have contributed. A person of ordinary skill in the art would have been motivated to make such a modification to the Novak reference so as to provide an overall more enjoyable viewing experience by permitting a contributing party to view personal media programming that they are most likely to be interested in.

Appellant argues Novak et al and Ellis et al, the combination does not disclose or suggest at least limitations of "determining when one or both of personal media and/or

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broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location" as recited in claim 1, the examiner respectfully disagrees.

Novak teaches the determination of scheduled broadcast media by using an electronic program guide 153, which is constructed/produced by local studio 106 or a cable service provider 108 and where personal media can be scheduled by an individual acting as a program director, upload source 122. The Novak reference was silent with respect to presentation of constructed display at the same location. The examiner relied upon Ellis which meets the limitation. The constructed display, where scheduling was performed at local studio 106 or at the cable provider in Novak, the presentation of the constructed display is provided at the contributor side as well in Ellis. The contributors are presented with input screen 196, which can be used for scheduling purposes. (Figs.8,14, Co1.11 lines 45-51) Wherein, a contributor can be a subscriber in a given cable system (Col.14 lines 24-31). Since, both of the teaching by Novak and Ellis work in the similar fashion and contributor is able to schedule information using input screen 196, which is presented at the same location, the combination would not be rendered inoperative. Therefore, the combination of Novak and Ellis meets the limitation "constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location."

Appellant argues Novak et al and Ellis et al, the combination does not disclose or suggest at least limitations of "acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media

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provider" as recited in claim 1, the examiner respectfully disagrees. Appellant states upload source 122 is only a source of personal media information and "information related to said schedule one or both of said personal media and/or said broadcast media" is separate from the personal media or the broadcast media. Novak et al teaches media objects are uploaded to the website 124 by the upload source 122.

(Paragraph 0056) Wherein, individual is able to enter media object information and preferences. (Figures 6-7; Paragraphs 0062-63) Accordingly, information related to the personal media object is being uploaded by the upload source 122. Furthermore, examiner points out the claim language wherein "information related to said scheduled one or both of said personal media and/or said broadcast media" only requires one of the media information.

Appellant argues Novak et al and Ellis et al, the combination does not disclose or suggest at least limitations of "updating, at a second geographic location, said at least one constructed display based on said acquired information" as recited in claim 1, the examiner respectfully disagrees with the applicant. Novak et al teaches cable subscribers are provided with media programs from the website 124 and to provide/update the EPG with media programs that are available from the website 124 (Paragraph 0041). To further clarify examiner's position, examiner points to paragraph 0059, wherein EPG 153 and/or STB 152 can communicate with the website 124 to receive program updated for the synthetic channel. Therefore, Novak et al discloses "updating, at a second geographic location, said at least one constructed display based on said acquired information."

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claim 1. Accordingly, claims 1, 11, 21, 31 and 32 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

B. Dependent claims 2, 12, 22 and 33

Appellant argues that claim 2 is allowable for being dependent upon an allowable claim and reciting additional features. Appellant asserts that Novak et al and Ellis et al, the combination neither discloses nor suggests "transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location", the examiner respectfully disagrees. Ellis teaches a personal television channel system in which contributors such as individuals in the home may create personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (Abstract; Fig. 1; col. 1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col. 11, lines 45-51; col. 14, lines 23-32).

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, 21 and 32. Accordingly, claims 2, 12, 22, and 33 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

C. Dependent claims 3, 13, 23 and 34

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, 21 and 32. Accordingly, claims 3, 13, 23, and 34 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

D. Dependent claims 4, 14, 24 and 35

Appellant argues that claim 4 is allowable for being dependent upon an allowable claim and reciting additional features. Appellant asserts that Novak et al and Ellis et al, the combination neither discloses nor suggests "storing media broadcast content corresponding to said accessed subscription information", the examiner respectfully disagrees. Claim 4 depends from claim 3, wherein limitation "accessing subscription information related to said media broadcast schedule in said at least one constructed display" is met by Novak that teaches the acquisition of subscription information by a cable service provider, in order to selectively send and updated EPG 153 containing synthetic channel (Figures 1, 7, and 11; paragraphs 0010,0075 and 0080). Furthermore, Novak teaches storage to server of uploaded media object to be provided to a client terminal (Figs. 1, 2, 4, & 5; paragraphs [0010], [0039], [0043], [0055], [0056], [0061]). Wherein, media object include audio and video clips, JPEGs, recorded audio video clips from television programs, sequenced JPEGs with attached audio files, MPEGs, MP3 files, web camera video clips, flash animation, text and graphics, or other files and media file types (Paragraph 0039). Therefore, end user is receiving EPG with synthetic

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channel based on subscription reads on claimed limitation "storing media broadcast content corresponding to said accessed subscription information."

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, 21 and 32. Accordingly, claims 3, 13, 23, and 34 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

E. Dependent claims 5, 15, 25, and 36

Appellant argues that claim 5 is allowable for being dependent upon an allowable claim and reciting additional features. Appellant asserts that Novak et al and Ellis et al, the combination neither discloses nor suggests "communicating said stored media broadcast content to a location where said updated at least one constructed display is presented", the examiner respectfully disagrees. Novak teaches storage to server of uploaded media object to be provided to a client terminal (Figs. 1, 2, 4, & 5; paragraphs [0010], [0039], [0043], [0055], [0056], [0061]). Wherein, media object include audio and video clips, JPEGs, recorded audio video clips from television programs, sequenced JPEGs with attached audio files, MPEGs, MP3 files, web camera video clips, flash animation, text and graphics, or other files and media file types (Paragraph 0039). In addition, Novak teaches the acquisition of subscription information by a cable service provider, in order to selectively send and updated EPG 153 containing synthetic channel (Figures 1, 7, and 11; paragraphs 0010, 0075 and 0080). Furthermore, Novak teaches the transmittal of stored uploaded media objects to a client terminal via a

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synthetic channel, which is included in an updated EPG 153 (Fig. 1, 2, 4, & 11; paragraphs [0010], [0060], [0069], [0085], [0087]).

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, 21 and 32. Accordingly, claims 5, 15, 25, and 36 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

F. Dependent claims 6, 16, and 26

Appellant argues that claim 6 is allowable for being dependent upon an allowable claim and reciting additional features. Appellant asserts that Novak et al and Ellis et al, the combination neither discloses nor suggests "combining representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information", the examiner respectfully disagrees. Novak et al teaches cable subscribers are provided with media programs from the website 124 and to provide/update the EPG with media programs that are available from the website 124 (Paragraph 0041). To further clarify examiner's position, examiner points to paragraph 0059, wherein EPG 153 and/or STB 152 can communicate with the website 124 to receive program updates for the synthetic channel. Therefore, Novak et al discloses updating of broadcast media and/or personal media based on information acquired from a media provider.

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, and 21. Accordingly,

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claims 6, 16, and 26 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

G. Dependent claims 7, 17, and 27

Appellant argues that claim 7 is allowable for being dependent upon an allowable claim and reciting additional features. Appellant asserts that Novak et al and Ellis et al, the combination neither discloses nor suggests "generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media", the examiner respectfully disagrees. Novak et al teaches cable subscribers are provided with media programs from the website 124 and to provide/update the EPG with media programs that are available from the website 124 (Figures 7-8; Paragraph 0041). To further clarify examiner's position, examiner points to paragraph 0059, wherein EPG 153 and/or STB 152 can communicate with the website 124 to receive program updates for the synthetic channel.

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, and 21. Accordingly, claims 7, 17, and 27 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

H. Dependent claims 8, 18, and 28

Appellant argues that claim 8 is allowable for being dependent upon an allowable claim and reciting additional features. Appellant asserts that Novak et al and Ellis et al, the combination neither discloses nor suggests "rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one

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constructed display to prevent scheduling conflicts", the examiner respectfully disagrees. Novak teaches the re-sequencing of media objects, to be presented on an electronic program guide, if an individual at an upload source 122 schedules one or more media objects for the same time slot (paragraph [0065])

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, and 21. Accordingly, claims 8, 18, and 28 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

I. Dependent claims 9, 19, 29, and 37

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, 21 and 32. Accordingly, claims 9, 19, 29, and 37 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

J. Dependent claims 10, 20, 30, and 38

Appellant do not appear to set forth any arguments over and above those previously presented with respect to independent claims 1, 11, 21 and 32. Accordingly, claims 10, 20, 30, and 38 are not believed to be allowable as set forth in the final rejection and preceding response to the appellant's arguments for independent claim 1.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Kunal Langhnoja/

Patent Examiner, Art Unit 2427

Conferees:

/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2427

/John W. Miller/

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